Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1978

NO. 78-926

UNITED STATES OF AMERICA,
Plaintiff-Appellant

Against

DONALD L. JACKSON
Defendant-Appellee

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

DONALD L. JACKSON
P. O. BOX 494
BUFFALO, NEW YORK 14205
Defendant.

TO: SOLICITOR GENERAL
Department of Justice
Washington, D. C. 20530

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

NO.

UNITED STATES OF AMERICA
Plaintiff

V.

DONALD L. JACKSON
Defendant

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

To the Honorable, the Chief Justice and Associate Justice of the Supreme Court of the United States:

The defendant prays the Court for a Writ of Certiorari directed to the United States Court of Appeals for the Second Circuit, to the end that this Court may review a decision which that Court has rendered in a case involving the parties above-named. And the petitioner respectfully shows to this Court:

THE OPINIONS AND ORDERS OF THE COURTS BELOW

This case came to the Court of Appeals upon an appeal from the United States District Court for the Western District of New York.

The opinion of the Court of Appeals and the Order Denying Rehearing En Banc are printed in the Appendix to this Petition. The Opinion and Order of the District Court are also printed in the Appendix.

JURISDICTION OF THIS COURT

The opinion of the Court of Appeals was rendered on August 18, 1978. Rehearing En Banc was denied November 13, 1978.

Jurisdiction to review the Judgment of the Court of Appeals is conferred on this Court by the provisions of 28 U.S.-C. 1254.

STATEMENT OF THE QUESTIONS PRESENTED FOR REVIEW

1. United States Supreme Court held Buckley v. Valeo 424 U. S. at 143, "FINALLY, we hold that most of the powers conferred by the Act upon the Federal Election Commission can be exercised only by "OFFICERS OF THE UNITED STATES,"

appointed in conformity with Art. II # 2, cl. 2 of the Constitution, and therefore cannot be exercised by the Commission as presently constituted. A letter listed in 17a, of the Appendix, signed by General Counsel of the Federal Election Commission John G. Murphy Jr., letter being dated 5 April 1975, stating "BECAUSE OF THE CURRENT UNCERTAIN STATUS OF ITS INVESTIGATORY AND ENFORCEMENT FUNCTIONS, THE FEDERAL ELECTION COMMISSION HAD DIRECTED ME TO REFER TO YOU OUR FILE IN THE ABOVE CAPTIONED MATTER". The Federal Election Commission was declared un-constitutional January 30,1976, and their powers were extended to March 22, 1976. The letter was illegally written and written to make it appear that the Federal Election Commissioners had written it.

2. That all exhibits presented to the Grand Jury, and used at the trial came from this illegally transferred file, plus both counts of the indictment are based on Exhibit 5 and 7, from the illegal transferred file.

3. That United States Attorney did not have jurisdiction to bring these proceedings on his own motion.

4. That the Federal Election Commission failed to AFFORD defendant a HEARING.
5. False testimony was presented to Grand Jury and during the trial.
6. Defendant was denied his Constitutional RIGHT TO REPRESENT HIMSELF during the proceedings in the District Court
7. That the Court ignored the Motion and the affidavits showing the illegal methods used by the F. B. I., including breaking into my home more than 3 times before the indictment and after the indictment seeking evidence, stealing over $30,000 the first three times, and the latest break in was August 30, 1978, when they stole over $3,500. All of the break in at no time did they have a search warrant. The Government denied none of the allegations in the affidavits and infact, never answered the Motion in any shape form or fashion, including the statement by the F. B. I., agent that LIMPS WHEN HE WALKS, SAYING THAT UNLESS A CASE AGAINST DEFENDANT WOULD STICK DEFENDANT WOULD HAVE TO BE KILLED
8. That the Trial Judge errored in not polling the Jury of their knowledge and opinion of FALSE publized story in the press daily during the trial of fraud evidence being presented in the Court,

when so such evidence was presented in the Court, and stories such as U. S. Attorney challenges defendant EXPENDITURES, when so such evidence was presented. these stories being false, were published to influence the jury.
9. Insufficient evidence or no evidence presented by the Government.
10. U. S. Attorney deceived the Grand Jury by telling the Grand Jury, the Federal Election Commission transferred defendants file to the Justice Department.
11. Defendant was denied a Speedy Trial. U. S. used 2 months in 1976 and used the period from June 1977 to January 1978, on a Motion made in Bad faith and a Motion was frivolous, and they lost their Motion, to have defendant declared bo be insane, however Government, were successful, in the Court not allowing defendant to exercise his Constitutional right to represent himself. See Appeal Index 6, 9 and 12, 13 and 16.
12. That Government presented NO evidence in any shape form or fashion as to the indictment. There was no evidence presented in any shape FORM or fashion as to both counts of the indictment of KNOWINGLY AND WILLFULLY DID FURNISH FALSE AND FRAUDULENT EVIDENCE.

13. That the Government did not present any evidence to show in any SHAPE form or FASHION. THAT APPROXIMATELY $110,931.00 WAS NOT CONTRIBUTED TO DEFENDANT CAMPAIGN DURING FEBRUARY 1976.

14. That the Government did not present any evidence in any shape form or fashion that , A LIST OF EXPENDITURES TOTALING APPROXIMATELY $111,640.00 MADE BY DEFENDANT CAMPAIGN DURING FEBRUARY OF 1976, WAS INACCURATE AS MUCH AS A PENNY . Government witnesses called up held the expenditures. Government witnesses Jennie Spidell, Representative U. S. Post Office, Asst. Manager Ulbrich Otto Co. Representative of Mr. Copy, no other witnesses were called by the Government on this subject.

15. Is defendant being a Candidate for President of United States, guilty of Fraud, if a donor makes a donation to the campaign using another name or address.

16. That the General Counsel for the Federal Election Commission transferred defendants file to the Justice Department, this action was illegal, for the Federal Election Act, requires the vote of 4 Constitutional Commissioners, which the Commission did not have on April 5, 1976 or April 5, 1975.

13. 434 OF THE FEDERAL ELECTION ACT. (14) When Committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, THEY SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBSECTION.

14. That 432 (c) of the Federal Election Act, RECORDKEEPING. " IT SHALL BE THE DUTY OF THE TREASURER OF A POLITICAL COMMITTEE TO KEEP A DETAILED AND EXACT ACCOUNT OF-

(1) ALL CONTRIBUTIONS MADE TO OR FOR SUCH COMMITTEE;

(2) THE INDENTIFICATION OF EVERY PERSON MAKING A CONTRIBUTION IN EXCESS OF $50, AND THE DATE AND AMOUNT THEREOF AND IF A PERSON'S CONTRIBUTION AGGREGATE MORE THAN $100, THE ACCOUNT SHALL INCLUDE OCCUPATION AND THE PRINCIPAL PLACE OF BUSINESS (if ANY) (3) ALL EXPENDITURES MADE BY OR ON BEHALF OF SUCH COMMITTEE AND(4) THE INDENTIFICATION OF EVERY PERSON TO WHOM ANY EXPENDITURE IS MADE, THE DATE AND AMOUNT THEREOF..."

THIS WOU LD RENDER THE INDICTMENT DEFECTIVE.

15. There no-where in the Federal Election Act, does it require a candidate living in New York State, who receives a donation of $2. or more from a donor in California or any where to travel to that State to investigate if the Donor

is using his correct NAME AND ADDRESS.

16. That Blacks were excluded from the Grand Jury and the Jury Trial, because it was the practice for years by the Justice Department and the Court not to consider Blacks for employment in the Court in any capacitylikewise the Justice Department refused to hire Black s

17. That the Congress of United States is illegally constituted, which would render their approval of the Federal Election Act, 26 U.S.C. 9031, 26 U. S. C. Section 9042 (c), 26 U.S.C. 9031, 26 U.S.C. 9032 (2), as being illegal, and these provisions passed by the Congress, should then be declared un-constitutional,

18. False testimony presented to the Grand Jury and during the trial.

19. The Grand Jury being mislead or delibertly lied to, U. S. Attorney knew that the Federal Election Commission had not transferred the file. Never-theless, told the Grand Jury as well as the Jury, that the Federal Election Commission transferred Defendants file to the Justice Department.

20. Ex Post Facto Law being applied in this case.

CONSTITUTIONAL PROVISIONS INVOLVED

CONSTITUTION OF THE UNITED STATES OF AMERICA,

ARTICLE 1, SECTION VI-2:

> NO SENATOR OR REPRESENTATIVE SHALL, DURING THE TIME FOR WHICH HE WAS ELECTED, BE APPOINTED TO ANY CIVIL OFFICE UNDER THE AUTHORITY OF THE UNITED STATES WHICH SHALL HAVE BEEN CREATED, OR THE EMOLUMENTS WHEREOF SHALL HAVE BEEN INCREASED, DURING SUCH TIME; AND NO PERSON HOLDING ANY OFFICE UNDER THE UNITED STATES SHALL BE A MEMBER OF EITHER HOUSE DURING HIS CONTINUANCE IN OFFICE.

CONSTITUTION OF THE UNITED STATES OF AMERICA'

ARTICLE 1, SECTION IX-3

> NO BILL OF ATTAINDER, OR EX POST FACTO LAW, SHALL BE PASSED.

CONSTITUTION OF THE UNITED STATES OF AMERICA,

ARTICLE IV SECTION II

> THE CITIZENS OF EACH STATE SHALL BE ENTITLED TO ALL PRIVILEGES AND IMMUNITIES OF CITIZENS IN THE SEVERAL STATES.

CONSTITUTION OF THE UNITED STATES OF AMERICA,

AMENDMENT IV,

> THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES SHALL NOT BE VIOLATED; AND NO WARRANTS SHALL ISSUE BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED.

CONSTITUTION OF UNITED STATES OF AMERICA , AMENDMENT V.

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY, EXCEPT IN CASES ARISING IN THE LAND OR NAVAL FORCES, OR IN THE MILITIA WHEN IN ACTUAL SERVICE, IN TIME OF WAR OR PUBLIC DANGER; NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; NOR SHALL BE COMPELLED, IN ANY CRIMINAL CASE, TO BE WITNESS AGAINST HIMSELF, NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW: NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION.

CONSTITUTION OF UNITED STATES AMERICA, AMENDMENT. VI;

IN ALL CRIMINAL PROSECUTION, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR; AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE.

CONSTITUTION OF UNITED STATES, AMENDMENT XIV-1

ALL PERSON BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES, NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY, WITHOUT DUE PROCESS OF LAW NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

STATUTES AND REGULATIONS INVOLVED

2 U.S.C 432 2 U.S.C. 434

2 U.S.C. 437

Congressional Record House March 30, 1976 Page H2332 and H2333 H2537 H2542

STATEMENT OF THE CASE

Defendant declared his candidacy for the Office of President of United States, list of names were purchased from various dealers, and thousands and thousands upon thousands of letters were mailed out for contributions plus my television appearances, radio and newspaper coverage, donations in sufficient amount arrived from 20 States, to qualify for matching funds. Immediately after Defendant filed application to the Federal Election Commission for Matching Funds, United

States Attorneys office in Buffalo announced through the Press, he was going to investigate Rev. Jackson's campaign such announcements appeared on Radio, Television and Local and National news media. Since 1973, I had been complaining each year that United States Attorney's Office and the District Court, to the White House that both offices no-doubt were the only ones in the Nation that Blacks were being excluded from employment. United States Attorney, extremely angry because I exposed his office practice of racial discrimination, went after me. Each day vicious un-founded attacks against me appeared in the press, and much of it quoting United States Attorney, and frequently some Newspapers stories quoted members of the Federal Election Commission Jet Magazine, Buffalo Courier Express WGR-TV, WBEN-TV- WKBW-TV quoted Mr. David R. Spiegel Counsel in the Federal Election Commission that Rev. Jackson, was being investigated by the Federal Election Commission. This attack upon me forced Defendant to withdraw from the Presidential race. I contacted the Federal Election Commission, and complained about the News stories regarding I being investigated.

The Fedederal Election Commission, stated that the Federal Election Commission, is not investigating you, and no one in this office should have made any statement to the press. The Commission further states that U. S. Attorneys Office, wants to make an investigation and that Mr. Wagner and Mr. Burns, Assistant U. S. Attorney from Buffalo, has been calling the Commission, demanding that Your file be transferred to the Justice Department. The Commission further states on each occasion they requested the file be transferred, they were told that the United States Supreme Court, has taken the vote away from 4 of their members, and they cannot conduct any business, therefore the file cannot be transferred. It was the intent of the Congress of U .S. to eliminate such un-founded attack upon a candidate.

2 U.S.C 437g (3) "ANY NOTIFICATION OR INVESTIGATION MADE UNDER PARAGRAPH (2) SHALL NOT BE MADE PUBLIC BY THE COMMISSION OR BY ANY PERSON WITHOUT THE WRITTEN CONSENT OF THE PERSON RECEIVING SUCH NOTIFICATION OR THE PERSON WITH RESPECT TO WHOM SUCH INVESTIGATION IS MADE."

Defendant did not give anyone written consent to give out any information.

See Congressional Record-House March 30 1976, Page H2523 and H 2533.

BUCKLEY v. VALEO 424 U. S. at 143, United States Supreme Court held: "FINALLY, WE HOLD THAT MOST OF THE POWERS CONFERRED BY THE ACT UPON THE FEDERAL ELECTION COMMISSION CAN BE EXERCISED ONLY BY OFFICERS OF THE UNITED STATES' APPOINTED IN CONFORMITY WITH ART. II, 2 Cl 2, OF THE CONSTITUTION AND THEREFORE CANNOT BE EXERCISED BY THE COMMISSION AS PRESENTLY CONSTITUTED."

See page 17a of the Appendix.

John G. Murphy Jr., General Counsel of the Federal Election Commission, writes: "BECAUSE OF THE CURRENT UNCERTAIN STATUS OF ITS INVESTIGATORY AND ENFORCEMENT FUNCTIONS, THE FEDERAL ELECTION COMMISSION HAD DIRECTED ME TO REFER TO YOU OUR FILE IN THE ABOVE CAPTIONED."

This is the letter that transferred Defendants file to the Justice Department. If the Commission directed this letter to be written it violated the Courts decision that held, "That only Officers of United States can exercise the authority of the Commission. If the letter was dated April 5, 1976, the Federal Election was in the same state as it was when this Court declared it to be unconstitutionally. Please note the letter is not signed by

any Commissioner. John Murphy, states he had been directed by the Commission. There was no authority presented that the Commission gave such an Order and if the Commission did, it would have violated this Courts Order.

See Congressional Record-House March 30, 1976 Page H 2537, Middle section third paragraph from top of page reads as follows:

"BASED ON THESE PRINCIPLES, HR. 12406, PROVIDES THAT ONLY UPON THE AFFIRMATIVE VOTE OF FOUR OF THE 6 VOTING MEMBERS CAN THE COMMISSION PROMULGATE RULES AND REGULATIONS, INITIATE INVESTIGATIONS, OR BRING JUDICIAL ACTION

2 U.S.C. 437c (2) (c)

(c) "ALL DECISION OF THE COMMISSION WITH RESPECT TO THE EXERCISE OF ITS DUTIES AND POWERS UNDER THE PROVISIONS OF THIS TITLE SHALL BE MADE BY A MAJORITY VOTE OF THE MEMBERS OF THE COMMISSION EXCEPT THAT THE AFFIRMATIVE VOTE OF 4 MEMBERS OF THE COMMISSION SHALL BE REQUIRED ....."

John Murphys Jr., General Counsel, nor did the Commission, have authority to transfer defendants file. All Exhibits presented to the Grand Jury and during the Jury trial that numbered from 1-8 including Exhibit 5 and 7, which both counts of the indictment are based upon

came from the illegally transferred file of Defendants.

The District Court Decision printed in the APPENDIX on pages 7a and 10a, Page 7a, state that the Commission "Referred" the matter to the Criminal Division of the Department of Justice. While on page 10a of the APPENDIX, is different: "THEREFORE, THE INABILITY OF THE COMMISSION TO MAKE A FINDING OF PROBABLE CAUSE AND REFER THE CASE TO THE ATTORNEY GENERAL BECAUSE IT HAD BEEN DECLARED UNCONSTITUTIONAL BY THE SUPREME COURT IN BUCKLEY v. VALEO.

Appendix 7a, the District Court, states the Commission referred the case, while on page 10A of the Appendix , the Court recognized the fact that the Commission did not find there was PROBABLE CAUSE, and did not REFER, the case toe the Justice Department.

Since the case was not legally REFERRED to the Justice Department, the Justice Department jurisdiction would not exist.

The Federal Election Commission is mandadated to give hearing.

United States Supreme Court held in BUCKLEY v. Valeo 424 U. S. at 111,112 "IN NO RESPECT DO THE FOREGOING CIVIL ACTIONS REQUIRE THE CONCURRENCE OF OR PARTICIPATION BY THE ATTORNEY GENERAL:

CONVERSELY, THE DECISION NOT TO SEEK JUDICIAL RELIEF IN THE ABOVE RESPECTS WOULD APPEAR TO REST SOLELY WITH THE COMMISSION. WITH RESPECT TO THE REFERENCED TITLE 18 SECTION # 437g (a)(7) PROVIDES THAT IF, AFTER NOTICE AND OPPORTUNITY FOR A HEARING BEFORE IT, THE COMMISSION FINDS AN ACTUAL OR THREATENED CRIMINAL VIOLATION THE ATTORNEY GENERAL 'UPON REQUEST BY THE COMMISSION' SHALL INSTITUTE A CIVIL ACTION FOR RELIEF. FINALLY, AS 'ADDITIONAL ENFORCEMENT AUTHORITY # 456 (a) AUTHORIZES THE COMMISSION, AFTER NOTICE AND OPPORTUNITY FOR HEARING, TO MAKE 'A FINDING THAT A PERSON... "

See Foot Note on page 112 of the decision Buckley v. Valeo.

The Commission did not NOTIFY DEFENDANT OR ALLOW DEFENDANT A HEARING.

United States Attorney presented false material to the Grand Jury, and during the Trial. U. S. Attorney, told the Grand Jury, and the Trial Jury, that the Federal Election Commission had referred file to the Justice Department.

EXHIBIT # 26, F. B. I., testified falsly before the Grand Jury, and before the trial jury. Agent Gill, falsely testified before the Grand Jury, that Lela Gibbons, tol[d] him she did not know the defendant. Lela

Gibbons, is the Sister of Defendant. Nor had she donated to defendant campaign. Mrs. Gibbons received a telephone call from a woman from United States Attorneys Office, she asked Mrs. Gibbons, had she received her subpoena. Mrs. Gibbons replied she had not and the woman then said you will be receing it very shortly, then the woman stated: "EVERYONE IS SAYING THEY DO NOT KNOW REV. JACKSON AND DID NOT DONATE TO THIS CAMPAIGN." This is tappering with a witness, the Justice Department telling a witness what they want the witness to say. A few minutes later an F. B. I., agent rung her door bell and gave Mrs. Gibbons a subpoena.

Mrs Gibbons complained to the F. B. I., agent of receiving a subpoena late that evening then having to be in Federal Court the next day. Few minutes after the agent left Mrs. Gibbons home, F. B. I agent Gill phone Mrs Gibbons and asked her what her problem was Mrs. Gibbons told him the Government had no consideration and they should be using their time trying to catch bank robbers and spies. Mr. Gill hung up and a few minutes later Mr. Wagner, Asst U. S. Attorney called, and asked if she knew Rev. Jackson, and if she donated to his campaign she replied

she Knew Rev. Jackson, and had donated Mr. Wagner then stated her testimony was not needed. Mrs. Gibbons was called by the Defendant, and she testified that she did not tell any F. B. I., agent she did not know her brother, andshe had not donated. She further testified that someone did telephone her and ask that question, and that she told them defendant was her brother and she donated to his campaign.

F. B. I., agent also testified before the Grand Jury, that Gerald and Mildred Jackson 186-33 Elmire Ave. Hollis, Li, N. Y, had told him that they did not know defendant and had not donated to the campaign. Both state they never told any F. B. I, agent that. Both Mr. and Mrs. Jackson, were subpoenaed to come to Buffalo to testify. They both arrived and Mr. Wagner, carried them to his office asked them if they knew Defendant and if they donated to defendants campaign, they replied they both knew defendant and had donated. Mr. Wagner then paid each of them $148. and told them to get lost. Another F. B. I agent testified before the Grand Jury, that they could not find Mr. Kuykendall listed 319 W. 76th N. Y. Page 34 of 83 also Exhibit 5, and told the Grand Jury, he did not exist. A

telephone call to New York City information would reveal, he does exist and has an Un-published telephone number.

DEFENDANT WAS DENIED HIS CONSTITUTIONAL RIGHT TO REPRESENT HIMSELF.

United States Supreme Court held in FARETTA v. California 422 U. S. 806,812,813 815,816,

"THE SIXTH AMENDMENT AS MADE APPLICABLE TO THE STATES BY THE FOURTEENTH GUARANTEES THAT A DEFENDANT IN A STATE CRIMINAL TRIAL HAS AN INDEPENDENT CONSTITUTIONAL RIGHT OF SELF-REPRESENTATION AND THAT HE MAY PROCEED TO DEFEND HIMSELF WITHOUT COUNSEL WHEN HE VOLUNTARILY AND INTELLIGENTLY ELECTS TO DO SO; AND IN THIS CASE THE STATE COURTS ERRED IN FORCING PETITIONER AGAINST HIS WILL TO ACCEPT A STATE-APPOINTED PUBLIC DEFENDER AND IN DEYING HIS REQUEST TO CONDUCT HIS OWN DEFENSE. (812)

IN THE FEDERAL COURTS, THE RIGHT OF SELF REPRESENTATION HAD BEEN PROTECTED BY STATUTE SINCE THE BEGINNINGS OF OUR NATION. SECTION 35 OF THE JUDICIARY ACT OF 1789, 1 Stat. 73,92, ENACTED BY THE FIRST CONGRESS AND SIGNED BY PRESIDENT WASHINGTON ONE DAY BEFORE THE SIXTH AMENDMENT WAS PROPOSED, PROVIDED THAT "IN ALL THE COURTS OF THE UNITED STATES, THE PARTIES MAY PLEAD AND MANAGE THEIR OWN CAUSES PERSONALLY

OR BY THE ASSISTANCE OF ...COUNSEL...."

THE RIGHT IS CURRENTLY CODIFIED IN 28 U.S.C. 1654.

815,816.

IN OTHER SETTINGS AS WELL, THE COURT HAS INDICATED THAT A DEFENDANT HAD A CONST - ITUTIONALLY PROTECTED RIGHT TO REPRESENT HIMSELF IN A CRIMINAL TRIAL.

Defendant Was Denied His Constitutional Right to Represent Himself and to Put on His Defense during THE PROCEEDINGS in the District Court.

Defendant was intelligent enough to represent himself. Defendants Education, ATTENDED GRADE AND HIGH SCHOOL IN RETSOF, NEW YORK, LATER RECEIVED G. E. D. DIPLOMA. ATTENDED ALABAMA A. & M. COLLEGE, NORMAL, ALABAMA, ALCORN A. & M. COLLEGE, LORMAN, MISS, KENTUCKY STATE COLLEGE, FRANKFORT, KENTUCKY, TAKEN COURSES FROM THE UNIVERSITY OF KENTUCKY, THEN COMPLETED FOUR YEARS STUDY OF LAW AND RECEIVED BACHELORS OF LAW DEGREE (LLB), FROM LASALLE EXTENSION UNIVERSITY, TAKEN COURSE IN CRIMINOLOGY DETECTION AND INVESTIGATION AND RECEIVED DIPLOMA. 20TH CENTURY BIBLE SCHOOL, AND MISSIONARIES SCHOOL, RECEIVED D. D. DEGREE. Defendant is the Author of two books that have been published, was formerly the Editor and Publisher of a Bi-Monthly Magazine and conducted Radio programs on 33 radio Stations daily, was fromerly Manager of Radio Station KKAL, and produced Cable T. V. program that was shown in 13 Cities daily including both Cable station in New

York City.
This Marriage produced 5 Sons, none of the Sons drink alcholic beverages or smoke, they are all vegeterians. Three of my Sons, are in College, the oldest will graduate in June, One will be in Boarding School in January, and one in Academy.
Defendant appeared before Magistrate Maxwell, and told Honorable Maxwell, that he wanted to represent himself. Mr. Wagner, Asst. U. S. Attorney was against defendant representing himself. The case then was transferred to Judge Elfvin, at that time all parties met in Judge Elfvin Chambers, I told Judge Elfvin, that I wanted to represent myself. Mr. Wagner, stated to Judge Elfvin, he would file a Motion to compel defendant to secure Counsel and to have defendant take a mental examination to ascertain if defendant can represent himself. Mr. Wagner, made his Motion SEE APPEAL INDEX #6. I was served a copy of the Motion papers and appeared before Judge Elfvin, and argued it was Constitutional Right, for me to represent myself, without being forced to take a mental examination. The Motion contained no allegations of

any mental acts or acts wrongfully done., however Judge Elfvin, Ordered me to take a mental examination. I tried to get our of taking the Mental Examination, I was forced to hire Attorney Richard Slominski, who had never tried a case in the Federal Court before.
After hiring a lawyer, Judge Elfvin issued ORDER Listed in Appendix Page 22a "ON SEPTEMBER 27, 1976, I GRANTED FROM THE BENCH THE GOVERNMENT'S MOTION FOR AN ORDER OF JUDICIAL DETERMINATION OF THE MENTAL COMPETENCY OF THE DEFENDANT. HE WAS NOT THEN REPRESENTED BY COUNSEL AND SUCH WAS A SUBSTANTIAL BASIS FOR MY DECISION. Richard A. Slominski, Esq. of Buffalo has advised me today that he has been retained by the defendant and that he will represent defendant in his defense of the charge contained. Because defendant is now fully represented by counsel in this matter, it is

ORDERED that my previous oral order that defendant submit to a mental examination is hereby rescinded , and it is further

ORDERED that the Government's motion for a judicial determination of defendant's mental competency is hereby denied

Dated Buffalo,N.Y. October 15, 1976

/s/ JOHN T. ELFVIN
U.S.D.J.

U. S. Attorney was controlling the prosecution and the type of defense the Defendant was to receive. It was evident Atty Slominski, was under Orders to or not to put up any defense for defendant. SEE APPENDIX PAGE 38a, this Mailgram on April 18, 1977, I sent to President of United States Jimmy Carter, stating the various illegal acts committed by the Justice Department, their agents Servants and Employees. These illegal act the Justice Department did not want anyone to find out about. United States Attorney, filed another Motion for Judicial Determination of the Mental Competency of Defendant, and stating that Defendant was REPRESENTING HIMSELF. Government, used the same 4 affidavits of defendant used before, plus the Mail-Gram, however at no time did the Government denie one word in the affidavits or the MAILGRAM. The Government did say the Mailgram "THERE ARE SOME INACCURATE STATEMENTS, the Government did not mention what was inaccurate. Atty Slominski was still representing Defendant, when the Motion was filed 6- 22-77, Atty. Slominski, was not served a copy, of the Government Motion to require Defendant to take a Mental examination and to require Defendant to SECURE LEGAL COUNSEL.

Judge Elfvin, granted the Order requiring Defendant to take a Mental Examination, this was a Default Judgment. I went to see Judge Elfvin, and Judge Elfvin, informed me the Atty. Slominski, did not appear and he Judge Alfvin, entered a default Order. I served notice on Atty. Slominski, his services were no longer desired. The Court required Atty Slominski to appear, and explain why he had been removed as counsel. ATTY SLOMINSKI, STATED TO THE COURT "THAT HE HAD RECEIVED A TELEPHONE CALL TO REPORT TO THE COURT, WHEN HE ARRIVED. HE WAS TOLD TO SEE MR. WAGNER, HE WENT TO MR. WAGNER'S OFFICE, AND WAS TOLD BY MR. WAGNER THAT MR. WAGNER FORGOT TO MAIL HIM HIS COPY OF THE MOTION TO HAVE DEFENDANT TAKE A MENTAL EXAMINATION AND GAVE MR. SLOMINSKI, A COPY OF THE MOTION, THE DATE ON THE PAPERS HAD LONG PAST, AND THAT MR. WAGNER FURTHER STATED HE WOULD LET ATTY. SLOMINSKI, KNOW WHAT DATE THE MOTION WAS SCHEDULED FOR. MR. SLOMINSKI FURTHER STATED MR. WAGNER NEVER NOTIFIED HIM THE DATE TO APPEAR IN COURT TO ARGUE THE MOTION, AND MR. WAGNER RECEIVED A DEFAULT JUDGMENT WITHOUT SERVING ANYONE."

Defendant again stated in open Court Defendant wanted to represent himself and could represent himself intelligently. U. S. Attorney refused to allow me to represent myself, saying that I should be made to secure a lawyer and to keep a lawyer. I was ordered to take Mental Examination. Summary:

1. U. S. Attorney obtained an ORDER TO COMPEL DEFENDANT to take a Mental Examination, without defendant or his Lawyer, having an opportunity to put up any defense.
2. Normally three doctors names are presented to the Court and all parties agree on one Doctor. Not so in this case. U. S. Attorney selected and presented one name to the court Dr. Schutketker.
3. Defendant was ordered to be examined by this Doctor.
4. Defendant appeared at the Doctors office, and was examined twice, after the first examination Dr. Schutketker stated: YOU ARE AN INTELLIGENT MAN YOU CAN STAND TRIAL AND REPRESENT YOURSELF.

5. Defendant went back to the Dr. Schutketker's office for the second examination, when the Doctor completed his examination he again stated to Defendant, " YOU ARE AN INTELLIGENT MAN YOU CAN STAND TRIAL AND REPRESENT YOURSELF."
6. When Mr. Wagner, heard this, he went to Dr. Schutketker, office. Dr. Schutketker, is a witness for the Court. Just by U. S. Attorney going to the Doctors's office talking to the Doctor, regarding his examination is improper and must be considered tampering with a witness. I am convinced that U. S. Attorney, went to the Doctors office to bribe the Doctor to change his report. The Doctor then did submit a report to the Court saying defendant was <u>insane</u>.
7. I had to secure an independent Doctors report, which stated I was Sane, the court up held my Doctors report after having an hearing. at the hearing Dr. Schutketke r was asked why he felt Defendant was insane.

Dr. Schutketker, replied, defendant said he did not trust lawyers, therefore anyone who does not trust a lawyer has to be insane. The hearing record will speak for itself.

Defendant was not allowed to take the stand or allowed to ask the Doctor any questions, my lawyer would not ask the doctor over hundred questions I had prepared. When I went to the Doctor's office I carried material on every topic I felt the Doctor would ask a question, each question was supported with evidence of some type. The Doctor asked me if I trusted Lawyers. I did not answer the question my self. I presented United States Supreme Court Decision

FARETTA v. CALIFORNIA 422 U. S. at 826, 827

"IN THE AMERICAN COLONIES THE INSISTENCE UPON A RIGHT OF SELF*REPRESENTATION WAS, IF ANYTHING, MORE FERVENT THAN IN ENGLAND. THE COLONISTS BROUGHT WITH THEM AN APPRECIATION OF THE VIRTUES OF SELF*RELIANCE AND A TRADITIONAL DISTRUST OF LAWYERS. WHEN THE COLONIES WERE FIRST SETTLED,'THE LAWYER WAS SYNONYMOUS WITH THE CRINGING ATTORNEYS GENERAL AND SOLICITORS-GENERAL OF THE CROWN AND THE ARBITRARY JUSTICES O F THE KING'S COURT, ALL BENT ON THE CONVICTION OF THOSE WHO OPPOSED THE KING'S PREROGATIVES, AND TWISTING THE LAW TO SECURE CONVICTIONS.

THIS PREJUDICE GAINED STRENGTH IN THE COLONIES WHERE DISTRUST OF LAWYERS BECAME AN INSTITUTION.' SEVERAL COLONIES PROHIBITED PLEADING FOR HIRE IN THE 17TH CENTURY. THE PREJUDICE PERISTED INTO THE 18th CENTURY AS THE LOWER CLASSES CAME TO IDENTIFY LAWYERS WITH THE UPPER CLASS."

Dr. Schutketker, declared Defendant as being Insane, because he presented the above court decision to his question do I trust lawyers.

United States Attorney used Mental Examination to deprive Defendant the right to represent himself, and to put on his defense.

See Appeal Index Motion to Dismiss, the Motion was duly served on U. S. Attorneys Office, and file in the District Court. Judge Elfvin, did not make any ruling on the Motion. The Government, never answered the Motion, and never denied any of the allegations as to their illegal activities See Appendix 27a, a letter signed by Richard Walsh, Chief Deputy Clerk, stating no decision from the Court would be made. This was wrong. More than $30,000 has been removed from my home, by individuals working for the F. B. I., seeking evidence against defendant, breaking into defendant home. The third time they broke into my home was September 1977, The Police and

the F. B. I., hired the individuals, they had defendant under watchful eyes, with police radioes announcing defendants whereabout every second of the day, then they sent in the two to break in my home. My neighbor caught them, two F. B. I, agents were parked almost in front of defendants home. The neighbor, was not sure if one of them was comming out of the window or going into the window when they caught them and screamed ans frighten them away. When I returned home, I telephone the Buffalo Police. The Police came, the neighbors described the two that broke into my home. The Police said " THE DESCRIPTION YOU GAVE US, APPARENTLY THEY WORK FOR US, AND WE CANNOT TAKE REPORT AGAINST SOMEONE THAT WORKS FOR US ." August 30, 1978, two City Inspectors, who also works for the F. B. I., went to my home and commence to break into my home, a number of my neighbors saw them, and one neighbor produced a Shot gun, to stop them, one them shouted, "THIS MAN IS GOING TO PRISON, AND WE MAY AS WELL GET THIS STUFF, BEFORE SOMEONE ELSE DOES." They left and returned with two members of the Buffalo Police, one of the Inspectors for the City of Buffalo, then broke the window, reached in and un-locked the front door,

entered the hallway, and then kicked that door in. They removed over $3,500 in cash. I sent the Mayor of Buffalo, a Mailgram about the thief and break in, and then phoned the police. The police arrived, and said they knew about it, and that THEY DID NOT HAVE A SEARCH WARRANT, FOR THEY WERE CITY INSPECTORS, AND DID NOT NEED ONE, however they would investigate. See Appendix 23a, this letter came from the Buffalo Police Commissioner, which is far from the truth 100% of the Buffalo Police on duty and off duty keep me under watchful eyes every second of the day and night.

The Trial Judge errored in not polling the Jury of their knowledge of stories that appeared in the press, which was printed to influence the jury, since no such evidence was presented in the court.

There was insufficient evidence or no evidence presented by the Government as to any parts of the indictment. Defendant was denied a SPEEDY TRIAL, the Government used 2 months in 1976 and the period from June 1977 to January 1978, to force Defendant to take a Mental Examination, trying to keep Defendant from exercising his Constitutional

right to represent himself, see Appeal Index 6,9 and 12, 13 and 16.
Government presented no evidence of any part of the indictment including KNOWINGLY AND WILLFULLY, AS TO BOTH COUNTS OF THE INDICTMENT.
That the Government did not present any evidence to show , THAT APPROXIMATELY $110,931.00 WAS NOT CONTRIBUTED TO DEFENDANT CAMPAIGN DURING FEBRUARY 1976.
The Government presented no evidence in any shape form or fashion A LIST OF EXPENDITURES TOTALING APPROXIMATELY $111,640.00 MADE BY DEFENDANT CAMPAIGN DURING FEBRUARY OF 1976, WAS INACCURATE AS MUCH AS A PENNY.
The Government called the following witnesses. A man from Ohio, that testified that he knew Defendant, and did not donate to Defendant campaign, HOWEVER THIS MAN NAME OR ADDRESS DID NOT APPEAR ANYWHERE IN DEFENDANTS FILINGS. Jennie Spidell testified she was paid, Representative of U. S. Post Office testified stamp coul d be purchase at any post office. Asst Manager of ULBRICH OTTO CO. testified he knew Defendant, and defendant made purchases, Mr. Copy testified he knew defendant, but could not state the amount was spent.

IT 's IMPORTANT THAT THE COURT CONSIDER THE QUESTION. IS A CANDIDATE GUILTY OF FRAUD IF A DONOR USE A DIFFERENT NAME OR ADDRESS? IS A CANDIDATE GUILTY OF FRAUD IF AN F. B. I., AGENT TESTIFY THEY WENT THE ADDRESS AND COULDN'T LOCATE THE PERSON THEN ASK THE NEIGHBOR IF THEY DONATED TO DEFENDANT?
Defendant testified that the records were accurate. The Government made no showing contrary 2 U. S. C. 434, was complied with.
2 U. S. C. 432, list donation as how they should be reported and the one's that need not to be reported. The indictment makes no exceptions, therefore the indictment is defective..
The Federal Election Act, does not recuire a candidate to investigate if the donor is using the correct name and address, therefore the indictment is still vague.
Its been a policy of the District Court and the Justice Department in Western New York, to exclude Blacks from employment. I had been complaining to the White House since 1974, that no Blacks were employed. Blacks were excluded from the Grand Jury and Trial Jury, because its their policy to exclude Blacks over the years.

To allow Reserve Officer of the Military to sit in the Congress, renders the United States Congress Illegal, for it violates United States Constitution ARTICLE 1, SECTION VI-2. Reserve Officers are appointed by the President and approved by the Senate, according to United States Constitution Article II, 2 Cl 2. Lawyers are officer of the Court, which is the Judicial Branch of Government, however they are not appointed under Article II, 2 Cl 2, of United States Constitution, they never-the -less hold an office of trust, being an Officer of the Court. Having Reserve Officers and Lawyers in the Congress, would render their approval of 26 US.C 9031, 26 U.S.C. Section 9042 (c) 26 U.S.C. 9031, 26 U.S.C. 9032 (2) null and void. United States Attorney lied to the Grand Jury, when he told the Grand Jury the Federal Election transferred defendants file.

The Justice Department have states during the proceedings in the District Court, that they were proceeding under the old section of the FEC, and an hearing would not be required

This large number of individuals that the Justice Department used to follow defendant included the MILITARY RECRUITMENT SERVICE OF U. S. ARMY, U. S. NAVY, U. S. AIRFORCE AND U. S. MARINES. I would report to work about 3:00 A. M, vehicles clearly marked U. S. Army, U. S. Navy, U. S. Marines and U. S. Airforce, would be following around the City. The drivers of the vehicles would be military personnel in their Military uniform. In 1977, U. S. Army recruitment, spent their entire time following defendant around the street, that they failed to obtain their quota, the recruitment office filed their report using phoney figures, which the Army officials discovered, it a violation of the law to use the Military against American Citizens unless authorized by the Congress or the President of United States. See Appendix 24a -26a 28a-37a the other affidavits are found in Appeal Index # 12 that list illegal acts by the Justice Department, and not word or statement has been denied by the Government. The Government since April 1976, hasintersepted all mail comming to or being sent by Defendant, including all legal papers to the Court. Any time Defendant drops a letter in the mail box, an F. B. I, agent will stand by the mail box until a Mail

man arrives and open the Mail Box and takes out the letter, sometime the letter reaches the person mailed to but many times the person never receives their mail. Defendants legal papers sent to the Court of Appeals, had to be prepared twice the first papers the court never received through the mail. I was not aware that a Notice of Appeal did not have to be served in this Court, never-the-less, I prepared Notice of Appeal, and sent copies Registered Mail with return receipt to Clerk U. S. Court of Appeal Solicator General, and Clerk of U. S. Supreme Court, then I put a copy to each in an envelop and gave them to a friend to drop in the mail box, each party received their copy this way, as of this date I have not received notice that the registered letters were delivered.

The Government tampered with the Grand Jury and the Trial Jury, the Government hired close relatives plus neighbors of each of the Grand Jury and Trial Jury, to follow Defendant. These relatives and neighbors pressured their relatives on the Grand Jury to turn an indictment without evidence, likewise the Jury of the trial to convict without evidence.

REASON FOR GRANTING THE WRIT OF CERTIORARI

THE DECISION OF THE DISTRICT COURT IS INCONSISTENT WITH UNITED STATES SUPREME COURT DECISION IN BUCKLEY v VALEO 424 U.S. 1. AND UNITED STATES SUPREME COURT DECISION IN FARETTA v. CALIFORNIA 422 U. S. 806. Defendants file was transferred, while the Federal Election Commission did not have a Majority or 4, Commissioner appointed by the President and approved by the Senate. That it was wrong to use the file papers, however all of the Exhibits 1-8 presented to the Grand Jury, and during the trial, plus Exhibit 5 and 7 came from this file, which both counts of the indictment are based upon. The case was not referred by the Commission to U. S. Attorney's Office. The Commission failed to afford Defendant, an hearing as required, The Commission and Justice Department gave out news stories. Defendant was denied his Constitutional Right to Represent himself. Court ignored Motion and illegal acts of the Government, No evidence or insufficient evidence presented. Grand Jury was deceived, when told the Commission transferred file, The Congress of U. S. is illegally constituted since Reserve Officers and

lawyers are members of the Congress. False testimony was presented to the Grand Jury by the Government. Defendant was denied a Speedy Trial.

CONCLUSION

For the reasons stated herein, CERTIORARI should be granted in this cause. The Conviction should be reversed and Indictment dismissed, or the Court should remanded to the District Court, with instruction Defendants rights must be protected, and Order a New Trial, where-Defendant can put on his own defense, before an impartial court and jury.

Respectfully submitted,

Donald L. Jackson

DONALD L. JACKSON
Defendant

Solicitor General
Department of Justice
Washington, D. C 20530

CERTIFICATE OF PROOF OF SERVICE

I DONALD L. JACKSON, DEFENDANT, HEREBY CERTIFIES THAT A COPY OF THE FOREGOING PETITION FOR A WRIT OF CERTIORARI, WAS SERVED ON THE SOLICITOR GENERAL AT HIS OFFICE, December 11, 1978.

Donald L Jackson

Donald L. Jackson

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 18th day of August, one thousand nine hundred and seventy-eight.

Present:
Hon. Ellsworth A. Van Graafeiland, Circuit Judge.
Hon. John F. Dooling, District Judge.*
Hon. Albert W. Coffrin, District Judge.**

United States of America,

Plaintiff-Appellee 78-1142

V.

Donald L. Jackson
Defendant-Appellant

O R D E R

Appellant appeals from a judgment convicting him on two counts of violating 26 U.S.C. # 9042 (c).

He asserts numerous claims of error, all of which we have carefully reviewed and found to be without merit.

The judgment of conviction is affirmed.

/s/ HON. ELLSWORTH A. VAN GRAAFEILAND
/t/ HON. ELLSWORTH A. VAN GRAAFEILAND

/s/ HON. JOHN F. DOOLING
/t/ HON. JOHN F. DOOLING

/s/ HON. ALBERT W. COFFRIN
/t/ HON. ALBERT W. COFFRIN

August 18, 1978.

*Hon. John F. Dooling, Senior District Judge of the United States District Court for the Eastern District of New York, sitting by designation.
**Hon. Albert W. Coffrin, District Judge of the United States District Court for the District of Vermont, sitting by designation.

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the thirteenth day of November, one thousand nine hundred and seventy-eight.

Present:

HON. ELLSWORTH A. VAN GRAAFEILAND
Circuit Judge
HON. JOHN F. DOOLING
HON. ALBERT W. COFFERIN
District Judges

United States of America
Plaintiff-Appellee,

78-1142

v.

Donald L. Jackson
Defendant-Appellant

A petition for a rehearing having been filed herein by defendant-appellant Donald L. Jackson, pro-se,
Upon consideration thereof, it is
Ordered that said petition be and hereby is denied.

A. Daniel Fusaro
Clerk

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

At a stated term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the thirteenth day of November, one thousand nine hundred and seventy-eight.

United States of America,
Plaintiff-Appellee,
v. 78-1142
Donald L. Jackson
Defendant-Appellant

A petition for rehearing containing a suggestion that the action be reheard in banc having been filed herein by defendant-appellant, Donald L. Jackson, pro-se, and no active judge or judge who was a member of the panel having requested that a vote be taken on said suggestion,

Upon consideration thereof, it is Ordered that said petition be and it hereby is DENIED.

/s/ IRVING R. KAUFMAN
/t/ IRVING R. KAUFMAN,
Chief Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA Cr.76-146
MEMORANDUM
-vs-
and
DONALD L. JACKSON ORDER

Defendant.

Defendant was charged in a two count indictment with violating 26 U.S. C. # 9042 (c). Count I of the indictment charges:

"That on or about the 6th day of March, 1976, in the Western District of New York, Donald L. Jackson, knowingly and wilfully did furnish false, fictitious, and fraudulent evidence and information to the Federal Election Commission, relevant to certification by the Federal Election Commission for his eligibility to receive Presidential Primary Election Matching Fund payments pursuant to the Presidential Primary Election Matching payment Account Act, 26 U. S. C. # 9031, et seq., to wit: a list of approximately 486 individuals who contributed to DONALD L. JACKSON's campaign a total of approximately $110,931.00 during February, 1976, and a list of expenditures totaling approximately $111,640.00 made by his campaign during February of 1976; all in violation of Title 26 United States Code Section 9042 (c)."

Count II of the indictment alleges:

"That on or about the 17th day of March 1976, in the Western District of New York, Donald L. Jackson, knowlingly and wilfully did furnish false, fictitious, and fraudulent evidence and information to the Federal Election Commission, relevant to certification by the Federal Election Commission for his eligibility to receive Presidential Primary Election Matching Fund payments pursuant to the Presidential Primary Matching Payment Account Act, 26 U.S.C. # 9031, et seq., to wit: that DONALD L. JACKSON, as a candidate within the meaning of 26 U.S.C. # 9032 (2), had received contributions which in the aggregate exceeded $5,000 from the residents of each of at least twenty states, and totaling approximately $110,931.00, and the aggregate of the aforesaid contributions with respect to any single contributor did not exceed $250.00; all in violation of Title 26 United States Code, Section 9042 (c)."

Defendant moves to dismiss the indictment on various grounds. Defendant alleges that he was denied the procedural due process protections contained in the Federal Election Campaign Act of 1971 as amended ("the Act") 2 U.S.C. ## 431 et seq. Specifically, defendant alleges that the Federal Election Commission ("the Commission") did not attempt to correct or prevent the alleged violations by defendant by

by informal methods of conference, conciliation or persuasion, as allegedly required in this case by 2 U.S. C. #437 g(a)(5)(A). This argument is unavailing. On April 5, 1976, after a preliminary review of the defendant's request for Presidential Primary Matching Funds, which indicated substantial factual inaccuracies in defendant's application for such funds in violation of 26 U.S.C. #9042(c), the Commission (uncertain about its investigatory and enforcement functions at that time) referred the matter to the Criminal Division of the Department of Justice. Where, as here, the Commission had determined that there is probable cause to believe that knowing or willful violation of 26 U.S.C 9042(c) have occured, it may refer such apparent violations to the Attorney General without making any conciliation efforts 2 U. S. C. #437g(a)(5)(D).

Defendant alleges that the Commission did not inform him oa any alleged violations abd that he was not given a reasonable opportunity to demonstrate that no action should be taken against him by the Commission, as required by 2 U.S.C. #437g(a)(2) and (4) These procedural safeguards are pertinent to civil

investigations which may be undertaken by the Commission and do not apply to or bind the Attorney General in conducting criminal investigations. The fact That the Commission did not inform defendant of the alleged violations and give him a reasonable opportunity to show that no action should be taken against him by the Commission before referring the matter to the Attorney General for possible criminal proceedings does not deprive the defendant of his constitutional due process rights in the criminal proceedings instituted by the Attorney General. Defendant alleges that a determination by the Commission that there was probable cause that knowing and willful violation of 26 U.S.C. #9042 (c) had occured and the Commission's referral of such apparent violations to the Attorney General is a condition precedent to the jurisdiction of the Attorney General to prosecute the alleged criminal violations of that statutory provision. Defendant argues that the referral by the Commission to the Attorney General was invalid because it occured subsequent to the Supreme Court's decision in Buckley v. Valeo 424 U.S. 1 (January 30, 1976), declaring the

Commission unconstitutional (with a stay of the effectiveness of such declaration until March 1, 1976) and prior to the passage of the Federal Election Campaign Act Amendments of 1976 (effective May 11, 1976) reconstituting the Commission. This contention is not well taken. A finding of probable cause by the Commission and its subsequent referral to the Attorney General is not a condition precedent to the jurisdiction of the Attorney General to investigate and prosecute alleged criminal violations of 26 U.S.C. # 9042 (c). The Attorney General is vested with the authority and responsibility to enforce all criminal statutes passed by Congress. 28 U.S.C. 515. Kennedy v. Rabinowitz, 318 F. 2d 181, 183 (fn.9) (D. C. Cir. 1963), aff'd, 376 U.S. 605 (1964). The Attorney General, as chief legal officer of the United States, has the authority and duty to control and supervise all criminal proceedings. United States v. Greater Blouse, Skirt & Neckwear Con. Ass'n, 228 F. Supp. 483, 486 (S.D.N.Y. 1964). It is reasonable to presume that, when Congress enacts a criminal statute (such as 26 U.S.C. # 9042 (c), it intends to authorize the

Attorney General to enforce the statute on his own prerogative. Public policy favors the unencumbered enforcement of criminal statutes. United States v. St. Regis Paper Company, 355 F. 2d 688, 693 (2d Cir. 1966).

The statutory provision in section 437g(a)(5)(D) requiring the Commission to make a finding of probable cause that knowing and willful violations of 26 U.S.C. #9042(c) have occured before referring such apparent violations to the Attorney General does not restrict the independent criminal enforcement powers of the Attorney General. That statutory provision is directed solely to, and merely limits, the powers of the Commission. The fact that the Commission may not refer a case to the Attorney General before it has made a finding of probable cause does not in any way curtail the power of the Attorney General to enforce criminal statutes, such as 26 U.S.C. # 9042(c). Such is not a condition precedent to the jurisdiction of the Attorney General to investigate and prosecute criminal violations. Therefore, the inability of the Commission to make a finding of probable cause and refer the case to the Attorney General because it had been declared unconstitutional by

the Supreme Court in Buckley v. Valeo, supra, does not taint the validity of the instant indictment. Further support for this conclusion is found in Buckley v. Valeo 519 F. 2d 821, 893 (fn.191) (D.C. Cir. 1975), aff'd in part, rev'd in part on other grounds, 424 U.S. 1 (1976), wherein the court disagreed with the district judge and held that, even in the area of civil enforcement where the Commission requested the Attorney General to institute a civil action on behalf of the United States, the Attorney General was not mandated by the provisions of 2 U. S. C. #437g(a)(7) to bring such an action because Congress did not intend to eliminate the discretion that had been traditionally vested in the Attorney General. The Supreme Court also noted in Buckley v. Valeo (424 U. S. at 112) supra, (fn. 153), that the Commission had at least primary jurisdiction with respect to civil enforcement of the Act and had the duty to refer apparent criminal violations to the Attorney General either upon initial receipt of a complaint or after an investigation.

Defendant asserts that the fact that he was under investigation was made public by the United States Attorney's Office and that this was allegedly contrary to 2 U. S. C. 437g(a)(3)(B). However, such statutory provision only applies to investigations undertaken by the Commission. In the present case, the Commission did not make an investigation but referred the matter after a preliminary review to the Attorney General. Furthermore, defendant does not allege that he has suffered any prejudice because of the alleged notification to the public that he was being investigated. Thus, dismissal of the indictment on this ground is unwarranted.

The defendant alleges that because the Federal Election Campaign Act Amendments of 1976. P. S. 91-283, 90 Stat. 475, were not passed until May 11, 1976 and the alleged fraudulent acts occured on March 6 and 17, 1976, the amendments are ex post facto as applied to the crimes charged in the indictment. Defendant's argument is wide of the mark. The indictment charges violations of Subtitle H, Chapter 96 of the Internal Revenue Act, specifically 26 U.S.C. # 9042(c). These provisions became effective on January 1,

1975, The constitutionality of these provisions was upheld in Buckley v. Valeo, supra, at 105-108. Therein, the court further stated at page 109 that Subtitle H was severable from those portions of the legislation which it held unconstitutional. Futhermore, the later-passed Federal Election Campaign Act Amendments of 1976 did not amend 26 U. S. C. # 9042(c).

The defendant next alleges that the grand jury was unconstitutionally constituted because blacks were allegedly systematically and intentionally excluded from serving on the grand jury and that there was insufficient evidence before the grand jury to warrant an indictment. Other than these bald conclusory allegations, defendant has not alleged any facts to substantiate these claims. The mere fact that there were no blacks among the persons sitting on this particular grand jury is insufficient to show systematic exclusion of blacks. Defendant has not alleged how the evidence before the grand jury was insufficient other than to say that it is his belief "that the indictment was based upon hearsay evidence and upon

conclusions rather than evidentiary facts." Defendant's request that the minutes of the Grand jury be made available to him so that he may show that there was insufficient evidence to indict him is hereby denied.

It is therefore hereby

ORDERED that defendant's motion to dismiss the indictment is denied.

Dated: Buffalo, N. Y.
June 14, 1977

/s/ JOHN T. ELFVIN
U. S. D. J

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

-vs- Cr. 76-146

DONALD L. JACKSON,

Defendant ORDER

The above name defendant having been convicted February 22, 1978 and after a trial by jury of both counts of the Indictment herein, and said defendant having been accorded until the 10th day of March, 1978 to move against the jury's verdict and for dismissal of said Indictment, and said defendant having appeared on said date and in this court personally and by his attorney William Purks, Esq. and said attorney having moved to set aside said verdict and for said dismissal and having argued in support of said motion, and United States Attorney Richard J. Arcara (Assistant United States Attorney Edward J. Wagner, of counsel) having also then and there appeared and argued in opposition to said motion, and I having then and there denied said motion and stated my reasons therefor on the record in open court but having thereafter withdrawn said denial for

purposes of giving attention to any other or further arguments that might be found in support of said motion in defendant's "summary of the 12 reasons that jury verdict should be over-turned" (such document having been filed with me in open court), and I having given attention to and considered the substance of the said summary,

Now, therefore, upon all of the above and on deliberation,

it hereby is

ORDERED that defendant's said motion for the setting aside of said verdict and for the dismissal of said Indictment is denied.

Dated: Buffalo, N. Y.
March 13, 1978

/s/ JOHN T. ELFVIN
U.S.D.J.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON D.C. 20463

5 April 1975

Mr. Richard L. Thornburgh
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D. C. 20530

Re: MUR 109 (76) (Jackson)

Dear Mr. Thornburg:

Because of the current uncertain status of its investigatory and enforcement functions, the Federal Election Commission had directed me to refer to you our file in the above captioned matter.

... ...
... ...

Sincerely yours,

/s/ JOHN G. MURPHY JR.
/t/ JOHN G. MURPHY JR.
General Counsel

NOTE: THE LETTER IS DATED PRIOR TO DEFENDANT EVEN DECLARING TO BE A CANDIDATE, AND FILING ANY PAPERS.

THE FEDERAL ELECTION COMMISSION

RECORD

1325 K. Street Washington D. C. 20463

Volume 2, No. 5 1976

COMMISSION MEMBERS SWORN IN- THOMSON ELECTED CHAIRMAN

On May 21, 1976, the six members of the newely re-established Federal Election Commission were sworn into office at ceremonies at the WHITE HOUSE. Immediately following the swearing-in, the Commissioners returned to FEC headquarters to conduct their first meeting as a newely re-constituted Commission.

*** *** ***

Since March 23, when the U. S. Supreme Court decision in Buckley v. Valeo went into effect, the former Commission could only receive reports, conduct routine audits, and provide general information. It could not constitutionally make executive type determinations-including making

interpretations of the law, issuing of the law, issuing Advisory Opinions, taking compliance actions, and certifying release of public funds. The Court had ruled that the manner in which the Commission was appointed - in part by the Congress- violated the separation of powers provision of the Constitution.

On May 11, The Federal Election Campaign Act Amendments of 1976 (P.L. 94-283) were signed into law, modifying the existing campaign finance law, and providing for appointment of the six Commission members by the President, with confirmation by the Senate.

One week after signing the FEC bill, the President named five former members of the Commission and a new member to staggered terms of two to five years- with each term ending in a non-election year.

*** *** ***

THE FEDERAL ELECTION COMMISSION

RECORD

1325 K. Street N. W. Washington,D.C. 20463

Vol. 2 No. 6 June 28, 1976

*** *** *** ***

COMPLIANCE PROCEDURES

The 1976 Amendments spell out new specific steps for the FEC to follow in its compliance procedure, as follows:

*** **** ****

3. Investigation. If the Commission determines that there is "reason to believe" a violation has been committed, it shall notify the person complained against, conduct an investigation, and afford such person a reasonable opportunity to demonstrate that no action should be taken by the Commission.

*** *** ***

5. Conciliation. If the Commission determines that there is "reasonable cause to believe" a violation has been committed, the Commission, for a minimum period of 30 days, must seek to correct the matter through "informal methods of conference, conciliation, and persuasion," and to enter into a conciliation agreement, All attempts to secure conciliation, and all conciliation agreements, will be made available to the public.

*** *** ***

7. Criminal Prosecution. In addition to civil enforcement of the entire FECA, the Commission has the authority to refer certain serious offenses to the Department of Justice for criminal prosecution. These are "knowing and willful" violations involving the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more, or having a les ser value in the case of certain sections.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA,

-vs- Cr.76-146

DONALD L. JACKSON ORDER

On September 27, 1976, I granted from the bench the Government's motion for an order of judicial determination of the mental competency of the defendant. He was not then represented by counsel and such was a substantial basis for my decision. Richard A. Slominski, Esq. of Buffalo has advised me today that he has been retained by the defendant and that he will represent defendant in his defense of the charge contained in the indictment. Because defendant is now fully represented by counsel in this matter, it is

ORDERED that my previous oral order that defendant submit to a mental examination is hereby rescinded, and it is further

ORDERED that the Government's motion for a judicial determination of defendant's mental competency is hereby denied.

Dated Buffalo, N.Y
October 15, 1976 /s/JOHN T. ELFVIN
U.S.D.J.

City of Buffalo
NEW YORK

JAMES B. CUNNINGHAM
COMMISSIONER

September 8, 1978

Mr. Donald L. Jackson
494 Hickory Street
Buffalo, New York 14204

Dear Mr. Jackson:

An investigation has been conducted regarding your allegation that monies were stolen from your home by City of Buffalo employees who entered your house illegally.

Officers investigating this complaint did attempt to contact you without success.

After reviewing various reports made by investigating Officer it is our conclusion that employees of the City of Buffalo did enter your home legally in the lawful pursuit of City business. There is no evidence to sustain your claim that monies were on the premises or that employees of the city removed it.

Sincerely

/s/JAMES B. CUNNINGHAM
Commissioner of Police

by
Ralph V. Degenhart
Deputy Police Commissioner

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

1. DONALD L. JACKSON, JR.,

deposes and says:

2. That he is the oldest Son of Donald L. Jackson, Sr., and my fourth year at Oakwood College.

3. That while I was in Buffalo, during the Summer vacation of 1976, I saw considerable number of F. B. I, agents, Buffalo Police, Sheriff personnel, Fireman and official vehicles of the City and State following my Dad, day and night, plus Taxi Cabs, and other vehicles driven by White women, Black women and White men and Black men. The number of individuals was much greater than 500 and may exceed 2,000 men and women that were following Rev. Donald L. Jackson.

4. That during this period many of same individuals also followed me.

5. That I was in Buffalo much of December 1976, and found that in one hour I taken the license number of 87 vehicles that were following my Dad. I found vehicles parked on the street, with men and women in the vehicles, and when my Dad would pass their vehicle, the person would pick up a microphone and have a conversation with soneone.

The vehicles that followed my Dad, each had a michophohe to broadcast on.

6. That I have seen these men and women following my Dad, inspect hi s garbage bags, and on one occasion they put the garbage bags in their vehicle and drove off with it.

7. That number of these same men and women followed my mother to church right to the church door. When church was out my mother went to her vehicle her battery had been stolen.

8. That sine I have been hom e for my Summer vacation for 1977, I have seen more than 400 vehicles many with Canadian license, Ohio, Michigan and Pennsylvania license plates folloing my Dad. I hav e seen them circling the block of my Dad's home, I have seen members of Buffalo Police Department in uniform and in Plain cloth, and F. B. I agents, and their many hundreds of informers, following my Dad, pointing their finger at him and even their fist. Those in vehicles with Canadian tags, were F. B. I., agents, I am sure this is illegal, for this Government to put on a disguise of another Country to harass my Dad, and to make it look as if the Government of Canada, was behind it.

The F. B. I., is trying to find the Treasurer and the Bookkeeper of my Dads campaign.

9. That I have seen Yellow Cab, Madison Cab., Broadway Cab, Gold Star, McBarrow, Cold Spring, Fillmore Cab, and many independent cabs, following my Dad reporting over a microphone, and Kenmore Cab.

10. That I have seen the Buffalo Police towing truck following my Dad, Police vehicle with CSO, or them.

11. That I believe that the F. B. I., had told their informers, that my Dad, has to be killed. I have watched the faces of the F. B. I., and the Buffalo Police Department, following my Dad, I see deep hatred in their face toward my Dad.

/s/ DONALD L. JACKSON Jr.

SWORN TO BEFORE ME THIS 18th DAY OF JULY 1977.

/s/DONALD J. PICONE
NOTARY PUBLIC STATE OF NEW YORK, MY COM.
Expires Mar. 79.

John K. Adams, Clerk

Office of the Clerk

United States District Court
Western District of New York
Niagara Square
Buffalo, N. Y. 14202

WILLIAM PURKS, Atty.
1530 Statler Hilton
Buffalo, N. Y. 14202

1/30/78

Re: U.S. v. Donald Jackson, CR76-146

Dear Sir:

The Court directed that I furnish you with a copy of the Court's decision dated 6/14/77, filed 6/15/77, which was dispositive of the Motion to dismiss by Defendant. The Court noted that during the proceedings in Court thid date you were advised that the Court would decide such motion this week, and the Court had made such remarks without reviewing the file, and the order having been called to the attention of the Court you are now advised that you should not anticipate receipt of another decision by the Court.

Very truly yours,

/s/ RICHARD R. WALSH
/t/ RICHARD R. WALSH
Chief Deputy Clerk

Enclosure

Copy to:

AUSA Edward J. Wagner

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

DONALD L. JACKSON, SR.,
deposes and says:

1. That in April 1976, I realize that I was being followed by a large number of White men that numbered more than 150. I soon realized they were F. B. I., agents and Buffalo Police Officers, hired by the F. B. I.

2. That before the Month of April 1976, was over, I realized that the White number of men that were following me had been increased, plus a number of Blacks were added.

3. That the F. B. I, had hired a large number of Cabs with their drivers to follow me, the month of May, June, and July the numbered had increased to over 500 full time persons, with about 500 part time persons to follow me.

4. That the F. B. I., was seeking evidence to present to the Grand Jury against me.

5. That additional to the 500 full time and 500 part time persons to follow me, they had retained guards to watch me, Buffalo General Hospital, Roswell Hospital, Millard Fillmore Hospital and the Deaconess

Hospital that numbered over 100, plus they had retained the Security Officers at State University of New York, the Elmwood Campus, the Main St. Campus, and the Amherst Campus, which added additional 100 persons to follow me.

6. That additional to the above, the F. B. I, hired about 20 postal workers to hold all my mail addressed to my home or my Post Office Box, and the F. B. I, did open my mail, and even open mail addressed to my Son.

7. That on 6th Day of July 1976, I file an affidavit docket No, 76-198 a copy is hereby enclosed, outlining some of the F. B. I, harrassment tacts, plus some license numbers. On July 19, 1976, another affidavit was filed Civ. No. 76-198, outlining additional harrassments and Civil Rights Violations, with larger list of license numbers. I have additional 1,500 license number o f vehicles used by the F. B. I, the Buffalo Police, State Police and the Sheriff's Department.

8. That my home has been broken into three times seeking evidence and if possible the address of the Treasure and Bookkeeper of my campaign, prior to the indictment.

9. That the F. B. I., had a walking patrol up and down the Street where I live, while I would be at home at night, they had a bicycle patrol, up and down the street in front of my home, they had a Motorcycle patrol.

10. That on many occasions the walking patrol, the F. B. I., had walking in front of my home would come up on my porch and look into my window. The vehicle patrol around the block that I live, consist of Taxi Cabs, and F. B. I., Buffalo Police and State Police, circuling the Block, about 45 seconds to 1 minute intervals.

11. That my favorite place to eat was Swiss Chalet on Main Street . It came to the place when I would go into Swiss Chalet, and taken my place in the booth , three F. B. I., agents would rush into Swiss Chalet and sit opposite of my table with their two or three radioes on the table, and sit there watching each mouth full of food that I ate. Plus about 8 to 10 Police officers would rush in there from the back and front to watch me.

12. That on some occasions, at night, they would have one ot their agents leaning his head against my house to hear any sounds in my home, and going to th e back to look into my windww, as well as the side.

13. That frequently when walking home a prositute would be let out of one of the Taxi Cabs, hired by the F. B. I., about half a block from me, when I reached that point, the point, the prostitute would offer herself to me for X number of dollars or send one their prositutes to come up on my porch, and pull her dress up, and offer herself for sexual activity.

14. That its a frequent occurance, to find a Police Officer, or a F. B. I., agent parked in front of my house with one o f the Prositutes off Genesee St. or found on Chippewa or Delaware and even Main Street, enjoying the prositutes activities.

15. That if a lady should wave to me passing by or stops on Main Street, or any street, F. B. I, agents and Buffalo Police officers, would follow the young lady to her home.

16. That frequently when carrying passenger to church F. B. I, agents would rush into the church to see who the person is.

17. That if I should talk to a person a F. B. I, agent will rush to the person and demand to know what I was talking about.

18. That on many occasions agents of the F. B. I, and the Buffalo Police Department has threaten to kill me. At 7:40 P. M. May 3, 1977, JOHN FUNDERGURG, a full time agent of the F. B. I., and the Buffalo Police, since about May 1976, he lives on William Street, near Pine Street, and he drives a Delivery Car Lic. No. 31402, did park his vehicle up from my home, and I could see him talking on his radio, that he sends messages to the Police and the F. B. I, at 701 Seneca St., first floor, and the Buffalo Police Department and he is paid by the F. B . I., jumped out of his vehicle, and came after me as I was walking home, with a large knife in his hand shouting "I am Going to Kill Your". "I AM GOING TO KILL YOU." HE shouted that three times and came after me with his knife drawn back ready to strike. This occured about 3 or 4 doors from my home. John Funderburg, was arrested and convicted for possession of Narcotics, and served time. He has been provided a Police Radio, whereby he can send messages and receive messages from the Police and the F. B. I.

While this attempt murder was being carried out by an agent of the F. B. I., and the Buffalo Police Department, a number of Police drove bye while two F. B. I., observed from a parked vehicle.

19. That the F. B. I, has used vehicles from hundreds of firms, listing only a few.

Madison Cab Co.	United Cab Co
Yellow Cab Co	Hodge Florist
Good News Cab Co	Liberty Florist
Seneca Cab Co.	New York Telephone Co.
Scully Cab. Co.	Niagara Mohawk Power Co.
Kenmore Cab	National Fuel Gas
Fillmore Cab Co.	Broadway Cab Co.
Gold Star Cab Co.	McBarrow Cab Co.
Cold Spring Cab Co.	Sears- Co.

20. That the F. B. I, their agents servants and employees, would dispatch cabs under their control, over the Police Radio to go to addresses, that Rev. Jackson, had been dispatched to go to pick up a pessenger, the F. B. I using the airways to conduct their criminal activity. The F. B. I, had cut into our Company broadcast, and then re-broadcast the messages dealing with my schedule, whereas all of the many hundreds of F. B. I paid agents could more easily follow me all over the City.

21. That June 1977, I had been dispatched to 1003 Sycamore St. Buffalo New York, I arrived there and loaded three passengers one of the passengers was

Mrs. Burnett Sabczak, 1423 Cleveland Dr. Buffalo, N. Y. (Phone 716 634-4067),

I turned in the Cab to ask my passengers their destination, when a Black man driving a delivery car, with a Police Radio in his Delivery Car, being dispatched by the Police and the F. B. I, to that address to create trouble, did open my door while my back was turned with a knife in his hand that appeared to be over 12 inches long and slashed at me three times with the knife saying I am going to Kill you, her drove a Delivery Car license No. 53 L 128,he kicked my cab, and ran after the cab. He was an agent of the F. B. I., hired to follow me about the City, which he still does to this date.

22. That three times in July 1976, one of the agents of the F. B. I did attack me and threaten to kill me.

23. That Mr. Kelly Director of the F. B. I, had stated that the F. B. I must take full responsible for acts of their agents, informers and employees.

23a That the same procedure has happen hundreds of time before the indictment and after the indictment, I would be talking to some one, an agent of the F. B. I, or an F. B. I agent would rush to the person and demand to know what I had been talking about. I was purchasing some ice cream, at the Ice Cream Stand on Memorial Dr., Near Broadway as soon as I left the owner informed me an F. B. I, agent rushed to the stand who had been parked across the street, showed his official authority, he was an F. B. I, agent, and asked the following questions: Has that fellow been giving you any Lip? and What was he talking about?

24. That the F. B. I, have been doing this since April 1976. Frequently I would go to Gi Gi's Restaurant on Ferry, near Jefferson, they would send in one of their paid informers John Evans, who drives a Taxi Cab for Gold Star, and he would ask the waitress what I had talked about.

25. That the F. B. I, had committed other acts to numberous to mention, they have violated my Civil Rights, the F. B. I has violated the law in their investigation in search for evidence prior to the indictment and after the indictment.

The F. B. I., has violated my privacy, such type of surveillance it seems to appear "SEARCH WARRANT" is required, to my knowledge no such search warrant has been issued, and it would be illegal for any Court to grant such authority to the F.B. I., to inflict paine and suffering on me.

26. That F. B. I., the Buffalo Police and their other agents would follow me to Canada, and harras me on the streets of Canada, and frequently would obtain the aid of local Police in Canada. These F. B. I., agents had no authority to cross the Canada border, and they have no authority in a foreign Country. They corssed the Border to follow me into Canada, prior to the indictment and after the indictment.

27. That the F. B. I., their agents servants and employees, used License Plates of Canada, on their vehicles when following me frequently on the streets in this Country this gave the impressinn that the Canadian authorities were harassing me, For one Country to use another Countries indentification is a violation of International Law.

28. That the Federal Election Commission violated the Federal Election Act, by discussing the investigation with Jet Magazine, and the Buffalo Courier Express. The Audit Division, of the Federal Election Commission, gave Jet Magazine, a story regarding me. There were others that gave the press news about the investigation, David R. Spiegel, Counsel, in the Feeral Election Commission Office, gave WGR-TV-2, WBEN-TV-4, WKBW-TV-7, news story regarding my investigation, and they reported same on their news cast, when I complainted to them, they informed me they received their news from David R. Spiegel, Counsel, in the Federal Election Commission, Office. I then telephon Mr. Spiegel, and indicated that I was editor "WIRE MAGAZINE", my publication, and Mr. Spiegel stated " I have told other radio & TV station that has called to make inquiry and Newspapers that Rev. Jackson, is being investigated for election fraud, he went into detail of his investigation.

/s/ DONALD L. JACKSON SR.
(DONALD L. JACKSON SR.)

SWORN TO BEFORE ME THIS 22ND DAY OF AUGUST 1977

/s/ RICHARD A. PLAMINSHE

NOTARY PUBLIC STATE OF NEW YORK MY CO MM

EXPIRE 3/30/78

MAILGRAM SERVICE CENTER Western Union MAILGRAM

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REVEREND DONALD L. JACKSON
494 HICKORY ST.
BUFFALO NY 14204

PRESIDENT JIMNY CARTER
WHITE HOUSE
WASHINGTON, D. C. 20500

Dear Mr. President

YOU ARE ABOUT TO PLACE A INORMOUS TAX ON GASOLINE SO THE PUBLIC WILL CUT DOWN THE USE OF IT WHILE AT THE SAME TIME YOUR FEDERAL BUREAU OF INVESTIGATION HAS USED MORE THAN 6 MILLION GALLONS OF GASOLINE SINCE APRIL 5, 1976 AND IS PRESENTLY CONTINUING ITS USE TO FOLLOW ME. I AM REVERED DONALD JACKSON WHO WAS A CANDIDATE FOR THE PRESIDENCY OF THE UNITED STATES LAST YEAR AND PRESENTLY I AM DRIVING A TAXI CAB THE FBI HAS USED AN ARMY OF 300 TO 500 FULL TIME INFORMERS WHICH I BELIEVE THERE ARE PAYROLL ON RECORD TO SUPPORT THIS PLUS ADDITIONAL L")) PART*TIME INFORMERS THEY USED MORE THAN 300 VEHICLES DAILY FOLLOWING MY TAXI CAB UP AND DOWN THE STREETS AND AT LEAST 30 different times i have carried passengers to canada more than 30 AGENTS

agents and almost the same number of informers have followed ME INTO THE COUNTRY OF CANADA HARASSED ME ON THE STREETS AND HIGHWAYS IN CANADA AS THEY HAVE DONE IN THIS COUNTRY THEY BROKE INTO MY HOME THREE TIMES THEY HAVE TAPED MY SON'S TELEPHONE AT NIGHT THEY WILL HAVE ONE OF THEIR INFORMERS STATIONED AT THE SIDE OF MY HOME FREQUENTLY HIS HEAD IS LAYING AGAINST THE BUILDING TO HEAR ANY SOUND IN THE HOUSE OR HE'S LOOKING IN MY WINDOW AND I'M SURE MR PRESIDENT YOU MUST AGREE THIS IS A VIOLATION OF MY CIVIL AND HUMAN RIGHTS I CANNOT UNDERSTAND WHY YOU ALLOW THIS TO EXIST WHILE CONDEMNING RUSSIA FOR THEIR CIVIL AND HUMAN RIGHTS VIOLATIONS TO COVER UP THE ABSORBENT AMOUNT OF GAS THE F. B. I., HAS USED VEHICLES FROM 100'S OF DIFFERENT COMPANIES I SHALL LIST ONLY A FEW QUICKLY NATIONAL FUEL GAS, NIAGARA MOHAWK POWER CORPORATION NEW YORK TELEPHONE COMPANY SEAR AND ROEBUCK AND MOST OF THE CAB COMPANIES AND INDEPENDENTS NATIONAL FUEL GAS FOR EXAMPLE PRIOR TO THE STRIKE SUPPLIED THE FBI WITH MORE THAN 15 VEHICLES DAILY NATIONAL FUEL GAS SUPPLIED THE GAS AND OIL AND MAINTANENCE FOR THE VEHICLES CHARGE IT TO THE OPERATING EXPENSES AND APPLIED TO THE PUBLIC SERVICE COMMISSION FOR AN INCREASE IN THE UTILITY BILL

WHILE EMPLOYEES OF THE CITY OF BUFFALO ARE INFORMANTS FOR THE FBI USING OVER 20 VEHICLES DAILY SOLELY FOR SURVEILANCE OF ME FOR THE FBI THEN WOULD TAKE THE VEHICLES TO THE CITY GAS PUMPS AND ACTUALLY STEAL THE GAS FOR THE VEHICLE THE FBI HAVE BEEN USING THEY HAVE USED THOUSANDS OF GALLONS OF GASOLINE SOME OF THOSE SAME CITY WORKERS SPENDING THEIR FULL TIME IN SURVEILANCE OF ME ARE NOW SUING THE CITY OF BUFFALO FOR OVERTIME WAGES THE FBI KNOWS VERY WELL THAT THEY PAID THEM FOR THE SAME PERIOD OF TIME BUT HAS ENTERED INTO THE CONSPIRACY AND RAMAIN SILENT. THE FBI HAS SPENT BETWEEN 5 AND 15 MILLION DOLLARS FOR THIS HARASSMENT FOR TWO REASONS 1. TO SHOW BLACKS WHAT WILL HAPPEN TO THEM IF THEY DARE TO RUN FOR THE PRESIDENCY OF THE UNITED STATES 2. IS TO TEACH ALL PEOPLE THAT THEY CANNOT EXERT THEIR RIGHTS UNDER THE FIRST AMENDMENT OF FREEDOM OF EXPRESSION AND CRITIZE THE FBI I HAVE BEEN HARASSED IN MAN DIFFERENT WAYS WHEN SOME OF THESE AGENTS WILL PASS MY TAXI CAB IN THEIR VEHICLE THEY'LL CALL ME A NO GOOD NIGGER A COON SHAKE THEIR FIST AT ME AND WILL CUSS AT ME MR PRESIDENT YOU MUST AGREE THAT THE FBI NEEDS A CHANGE NOT ONLY ITS DIRECTOR BUT MANY OF ITS AGENTS SHOULD BE ASKED TO RESIGN IT IS EVIDENT THE FBI CANNOT AND HAS NOT OPERATED WITHIN THE FRAMEWORK OF

THE LAW OF THIS NATION I MUST CONCLUDE THEY ARE A GROUP OF CRIMINALS OPERATING WITH FULL AUTHORITY OF THE UNITED STATES GOVERNMENT BEHIND THEM.
THIS ARMY OF 500 to 2000 MEN CONSIST OF EVERY KNOWN CRIMINAL ELEMENT PLUS MANY MEMBERS OF THE BUFFALO POLICE DEPARTMENT AND THE SHERIFF'S DEPARTMENT. SOME OF THEIR INFORMERS HAVE STATED THAT THE FBI AGENT THAT LIMPS WHEN HE WALKS TOLD THEM THAT I HAVE SUED THE FBI AND THEREFORE I AM NUMBER 1 ON THE FBI'S MOST WANTED LIST AND IF THEY COULDN't GET A CASE AGAINST ME THAT WOULD STICK THEY WOULD HAVE TO KILL ME. IT WAS EVIDENT MR PRESIDENT THAT YOU SHOULD APPOINT A SPECIAL PROSECUTOR TO LOOK INTO THESE ALLEGATIONS AND ALSO APPOINT A RETIRED FEDERAL JUDGE TO HEAR ALL PROCEEDINGS GROUGHT BY THE SPECIAL PORSECUTOR

SINCERELY

REVERED DONALD L. JACKSON
8552775

Supreme Court, U. S.
FILED
FEB 7 1979
R., CLERK

No. 78-926

In the Supreme Court of the United States

OCTOBER TERM, 1978

DONALD L. JACKSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

WADE H. MCCREE, JR.
Solicitor General

PHILIP B. HEYMANN
Assistant Attorney General

JOSEPH S. DAVIES, JR.
JOHN T. BANNON, JR.
Attorneys
Department of Justice
Washington, D.C. 20530

In the Supreme Court of the United States

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No. 78-926

DONALD L. JACKSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The judgment order of the court of appeals (Pet. App. 1a-2a) is not reported. The opinion of the district court (Pet. App. 5a-14a) is not reported.

JURISDICTION

The judgment of the court of appeals was entered on August 18, 1978. A petition for rehearing was denied on November 13, 1978 (Pet. App. 3a). The petition for a writ of certiorari was filed on December 11, 1978. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether petitioner was improperly denied the procedural protections of the Federal Election Campaign Act.

2. Whether the Attorney General had authority to prosecute petitioner for violations of the federal election laws in the absence of a referral of the case from the Federal Election Commission.

3. Whether petitioner was denied the right to represent himself at trial.

STATEMENT

After a jury trial in the United States District Court for the Western District of New York, petitioner was convicted of knowingly and willfully furnishing false, fictitious, and fraudulent evidence and information to the Federal Election Commission, in violation of 26 U.S.C. 9042(c). He was sentenced to two years' imprisonment. The court of appeals affirmed (Pet. App. 1a-2a).

The evidence adduced at trial showed that on March 6, 1976, petitioner applied to the Federal Election Commission for matching funds to finance his 1976 presidential campaign. Petitioner claimed that he had raised $110,000 in contributions and that he was therefore entitled to receive matching federal funding under the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.*[1] The application set forth the names of the alleged contributors, their addresses, their occupations, and the amount each contributed. On March 17, 1976, petitioner submitted a statement to the Commission agreeing to furnish books and records to verify his eligibility. Petitioner again claimed to have raised the necessary minimum contributions to qualify for matching funds. Subsequent investigation revealed that many of the alleged contributions had not occurred (Tr. 61-82, 83-86, 87-91, 107-110).

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[1]To be eligible for matching funds a candidate must have received contributions exceeding $5,000 from residents of at least 20 states, with the contribution from any person not exceeding $250. See 26 U.S.C. 9033(b)(3) and (4).

ARGUMENT

1. Petitioner contends (Pet. 17-19) that before referring his case to the Department of Justice for prosecution the Federal Election Commission had a statutory obligation under 2 U.S.C. 437g (a)(2), (4), and (5)(A)[2] to notify him of any alleged violations and to give him a reasonable opportunity to show why the Commission should not take action against him. Petitioner's contention is without merit. As the district court noted (Pet. App. 7a-9a), the procedures relied on by petitioner are pertinent only to civil investigations undertaken by the Commission as a precondition to instituting a civil action for injunctive relief or civil penalties pursuant to 2 U.S.C 437g(a)(5)(B).[3]

---

[2]2 U.S.C. 437g(a)(2), (4) and (5)(A) provide:

> (2) The Commission, upon receiving a complaint under paragraph (1), and if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of Title 26, or, if the Commission, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, has reason to believe that such a violation has occurred, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.
>
> * * * * *
>
> (4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.
>
> (5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of Title 26, the Commission shall make every endeavor for a period or not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. * * *

[3]The procedures are applicable only where the Commission itself is to take action "against such person * * *." 2 U.S.C. 437g(a)(4). Where the Commission refers the case to the Attorney General under 2 U.S.C. 437g(a)(5)(D), it is the Attorney General and not the

Those procedures have no application to the prosecution of criminal violations by the Attorney General. *United States* v. *Tonry*, 433 F. Supp. 620, 622-623 (E. D. La. 1977).

2. Petitioner next contends (Pet. 16-17) that, because this Court held in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), that the Federal Election Commission was unconstitutionally constituted, the Commission lacked any power to refer petitioner's case to the Attorney General for prosecution. Petitioner's theory is that his case was "not legally referred to the Justice Department" and that the Department therefore lacked "jurisdiction" to prosecute him (Pet. 16). This claim is insubstantial.

This Court's decision in *Buckley* v. *Valeo* did not invalidate the Commission's powers to refer a case to the Department of Justice. Even if it had, the existence or non-existence of such authority in the Commission is not relevant to the authority of the Attorney General to investigate and prosecute alleged violations of 26 U.S.C. 9042(c). The Attorney General is authorized by 28 U.S.C. 515 and 516 to enforce all federal criminal statutes (*Kennedy* v. *Rabinowitz*, 318 F. 2d 181, 183, n.9 (D.C. Cir. 1963), aff'd, 376 U.S. 605 (1964)) and, as chief legal officer of the United States, he has the authority and duty to control and supervise all criminal proceedings. *United States* v. *Alessio*, 528 F. 2d 1079 (9th Cir.), cert. denied, 426 U.S. 948 (1976); *United States* v. *Greater Blouse, Skirt and Neckwear Ass'n*, 228 F. Supp. 483 (S.D.N.Y. 1964). By enacting 26 U.S.C. 9042(c) to prohibit the filing of false information with the Federal Election Commission, Congress authorized the Attorney General to

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Commission who determines whether to take action "against such person." Any contrary determination by the Commission can neither compel nor forestall prosecution in the discretion of the Attorney General. See *United States* v. *Tonry*, 433 F. Supp. 620, 623 (E.D. La. 1977).

prosecute violations without requiring the formal approval or consent of the Commission. *United States* v. *Tonry, supra*, 433 F. Supp. at 622-623.

The statutory provision that authorizes the Commission to refer apparent criminal violations to the Department of Justice (2 U.S.C. 437g(a)(5)(D)) does not restrict the Attorney General's independent criminal enforcement powers. See note 3, *supra*. This statutory provision, which is designed to allow the Commission to refer an apparent violation to the Attorney General without first engaging in the conciliation procedures outlined in 2 U.S.C. 437g(a)(5)(A), is directed solely to the administrative responsibilities of the Commission itself. The fact that the Commission may not, in some circumstances, refer a case to the Attorney General would not limit the authority of the Attorney General to prosecute violations of the criminal statute. *United States* v. *Tonry, supra*.

3. Petitioner contends (Pet. 20-29) that he was denied the right to represent himself at trial. The record does not support petitioner's claim.[4] Petitioner retained three separate attorneys during his trial. The first discontinued his representation, the second died unexpectedly, and the third continued through trial (C.A. App. 2-4). For at least a portion of the proceedings petitioner did in fact represent himself (*id.* at 3).

---

[4]Petitioner notes (Pet. 22) that when he initially sought leave to proceed pro se, the government opposed his motion. The government's opposition was based on concern that there was then pending a request for a mental competency examination and that petitioner should not be permitted to represent himself until the results of that examination had been obtained. Shortly after the district court ordered a mental examination to determine petitioner's competency, petitioner retained private counsel.

Moreover, many of the pleadings were prepared by petitioner, and petitioner handled his own appeal. Petitioner's claim lacks any factual foundation.[5]

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

PHILIP B. HEYMANN
Assistant Attorney General

JOSEPH S. DAVIES, JR.
JOHN T. BANNON, JR.
Attorneys

FEBRUARY 1979

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[5]Petitioner raises many additional issues but makes no attempt to explain or substantiate the allegations by reference to the trial record. See Rules 19(1)(b), 23(1)(h) (3) and (4) of the Rules of this Court. Since it is not possible to determine the nature of many of petitioner's complaints, we are unable to respond to them.

DOJ-1979-02

Supreme Court, U. S.
FILED
MAR 6 1979
MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
October Ter 1978

NO. 78-926

DONALD L. JACKSON
Plaintiff
vs.
UNITED STATES OF AMERICA
Defendant

PETITION FOR RE-HEARING FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

DONALD L. JACKSON
P. O. Box 494
Buffalo, New York 14205

TO: SOLICITOR GENERAL
Department of Justice
Washington, D. C. 20530

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

NO. 78-926

DONALD L. JACKSON

Plaintiff

v.

UNITED STATES OF AMERICA

Defendant

PETITION FOR RE-HEARING FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

To the Honorable, the Chief Justice and Associate Justice of the Supreme Court of the United States:

The Plaintiff prays the Court for a Writ of Certiorari directed to the United States Court of Appeals for the Second Circuit, to the end that this Court may review a decision which that Court has rendered in a case involving the parties

above-named. And the petitioner respectfully shows to this Court:

THE OPINIONS AND ORDERS OF THE COURTS BELOW

This case came to the Court of Appeals upon an appeal from the United States District Court for the Western District of New York.

The Opinion of the Court of Appeals and the Order Denying Rehearing En Banc are printed in the Appendix to original Petition. The Opimion and Order of the District Court are also printed in the Appendix.

JURISDICTION OF THIS COURT

The opinion of the Court of Appeals was rendered on Au gust 18, 1978, Rehearing En Ban was denied November 13, 1978.

Jurisdiction to reveiw the Judgment of the Court of Appeals is conferred on this Court by the provision of 28 U. S. C. 1254(1).

STATEMENT OF THE QUESTIONS PRESENTED FOR REVIEW

1. April 5, 1976, while the Federal Election Commission, did not have 4 Commissioners who were appointed by the U. S. President and approved by the Senate, Transferred Plaintiffs file with a letter signed by the General Counsel.

The letter transferring Plaintiff's file is printed on page 17a of the Appendix.

2. All of the Exhibits 1-8, came from the illegally transferred file.

3. Both Counts of the indictment are based on Exhibit 5 and Exhibit 7, both from the illegally transferred file.

4. Plaintiff was denied his Constitutional Right to Represent himself in the District Court. Plaintiff was forced to hire Attorney, by the use of Mental Competency examination. After I hired the first lawyer Mr. Slominski, the Judge reversed himself. When I was about to discharge my attorney, another Motion to compel Plaintiff to secure legal counsel, and to take Mental Examination, I then was forced to hire Atty. Robinson, who died of a heart attack within a week, Atty Purks, taken over Atty. Robinson cases, and I was forced to take him even though I did not want him. Most of the papers drawn up were drawn up by myself, however all of them were ignored by the Court because I was not represented by Counsel. PLAINTIFF, WAS NOT ALLOWED TO ASK ANY QUESTIONS, IN ANY SHAPE FORM OR FASHION, INFACT BOTH ATTY, WERE UNDER CONTROL OF THE GOVERNMENT, WHO INSTRUCTED THEM WHAT TO DO AND NOT TO DO. THE GOVERNMENT CONTROLLED THE PROSECUTION

AND THE TYPE OF DEFENSE THE PLAINTIFF WAS TO RECEIVE.

5. Insufficient Evidence or No evidence presented.

NO EVIDENCE WAS PRESENTED IN ANY SHAPE FORM OR FASHION, AS TO: COUNT I WILFULLY AND KNOWINGLY .

NO EVIDENCE WAS PRESENTED IN ANY SHAPE FORM OR FASHION, THAT DONATIONS DID NOT REACH THE HAND OR TO THE OFFICE OF PLAINTIFF IN THE AMOUNT OF $110,931.00 AS TO THE $111,640.00 LISTED FOR EXPENDITURES. THE GOVERNMENT OWN WITNESSES UP-HELD THEM. JENNIE SPIDELL, MR. COPY, THE POST OFFICE, ULBRICH OTTO CO.

AS TO COUNT II OF THE INDICTMENT.

NO EVIDENCE IN ANY SHAPE FORM OR FASHION AS TO KNOWINGLY AND WILFULLY.

NO EVIDENCE WAS PRESENTED THAT DONATIONS HAD NOT BEEN RECEIVED. AND NO EVIDENCE WAS PRESENTED THAT ANY DONATION EXCEEDED $250.

6. The affidavits of illegal acts committed by the Government were ignored by the Court.

7. Plaintiff was denied a Speedy Trial.

8. The indictment was based on the use of False testimony from two or more F. B. I., agents.

9. The Grand Jury was mislead by U. S. Attorney,

10. Dr. Schutketker, a witness of the Court, was tampered with by the Government.

STATEMENT OF THE CASE

Defendant was a declared candidate for the Office of President of United States. United States Attorney, announced through the Press, daily, along with officials of the Federal Election Commission, attacked me daily through the National News Media. That forced me to withdraw from the Presidential race. This attack violated the Federal Election Act.

The Federal Election Commission had been declared to be Un-Constitutional by your Court Buckley v. Valeo.

The Federal Election Commission did not have authority to transfer Plaintiff File, the letter listed in Appendix 17a of the Original Brief filed is not even signed by any Commissioner. That both counts of the Indictment are based on Exhibits from this file.

Plaintiff was denied the right to represent himself, and to put on his defense.

Plaintiff was denied the Right to READ THE PROBATION REPORT.

EVERY RIGHT GUARANTEED TO A DEFENDANT IN THE DISTRICT COURT, WAS DENIED PLAINTIFF.

Plaintiff, is being placed the burden to prove himself innocent,
The Government presented no evidence on the indictment.
The Government read into the record, whereby F. B. I., agents went to various addresses and could not located the listed donor.
The agents would ask the next door neighbor who name was not listed, if they knew the Rev. Donald Jackson, and if they donated to his campaign. This is the entire evidence presented by the Government.

IF A DONOR USES A DIFFERENT NAME OR ADDRESS, SHOULD A CANDIDATE BE CHARGE WITH FRAUD .

The Law requires that ALL DONATIONS AND EXPENDITURES, be recorded and reported.
The law does not require a candidate to travel to the donors address, to ascertain if the donor is using his correct name or address.
The Government did present one of people they contacted Mr. Williams, who was over 70 years old, almost blind, the Government put him on the stand, and asked him how long he lived on Hickory Street, and Mr. Williams replied over 20 years, then he said I do not know the people who live on my street.

Mr. Williams, represents the caliber of people they contacted. There is a $25,000 fine for anyone who uses a different name in making a donation.
The Government did not offer anyone Immunity from prosecution. Therefore when an F. B. I., agent asked a person if they donated, and if the person donated in another name, and they admitted it to the F. B. I., agent, they could have been indicted. The Government was holding a sword over them with one hand, hoping they would produce a No answer so they could bring charges against Plaintiff.

CONCLUSION

FOR THE REASONS STATED HEREIN, AND IN THE ORIGINAL PETITION CERTIORARI SHOULD BE GRANTED IN THIS CASE.
THE CONVICTION SHOULD BE REVERSED AND INDICTMENT DISMISSED, OR THE COURT SHOULD REMANDED TO DISTRICT COURT, FOR A NEW TRIAL.

Respectfully submitted,

Donald L. Jackson

DONALD L. JACKSON
Plaintiff

TO: Solicitor General
Department of Justice
Washington, D. C. 20530

CERTIFICATE OF PROOF OF SERVICE

I DONALD L. JACKSON, PLAINTIFF HEREBY CERTIFIES

THAT THREE COPY OF THE FOREGOING PETITION FOR RE-HEARING FOR A WRIT OF CERTIORARI, WAS SERVED ON THE SOLICITOR GENERAL BY SECURLY WRAPPING THEM WITH FULL POSTAGE PAID, AND DEPOSITING THEM IN THE MAIL. MARCH 3, 1979.

Donald L. Jackson

DONALD L. JACKSON